

R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

SUPPORT FOR THE CLAIM AMENDMENTS

Support for the claim amendments can be found in the specification, for example, on page 6 lines 21-22, page 8 lines 13-15, page 9 lines 21-31, page 13 lines 21-31, page 15 lines 11-26, page 17 lines 17-27 and FIGS. 2-4 and 8 as originally filed. Thus, no new matter has been added.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

The rejection of claims 4 and 13 under 35 U.S.C. §112, first paragraph, has been obviated by appropriate amendment and should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 1, 3-5 and 12-14 under 35 U.S.C. §103(a) as being unpatentable over Takamoto, et al. '631 (hereafter Takamoto) in view of Sutton '823 is respectfully traversed and should be withdrawn.

Takamoto concerns a method and apparatus for transmitting data in a network wherein acknowledgment signals are transmitted to acknowledge receipt of data (Title). Sutton concerns reliable switching between data sources in a synchronous communication system (Title). In contrast, the presently claimed invention provides a method of preparing data for transmission. The method generally comprising the steps of (A) transmitting a first signal requesting a permission to transmit data, (B) generating a first packet from data of a first source prior to receiving a second signal granting the permission to transmit data, (C) transmitting a third signal requesting a change of data source from the first source to a second source subsequent to the generating of the first packet, wherein the transmitting of the third signal occurs if the data of the first source is incomplete and (D) generating a second data packet from data of the second source.

Claim 1 provides a step of transmitting a first signal requesting a permission to transmit data. Despite the assertion on page 2, last paragraph of the Office Action, FIGS. 2 and 4, the abstract, column 8 lines 4-20 and claim 1 of Takamoto appears to be silent regarding transmission of a signal requesting permission to transmit data. Therefore, Takamoto and Sutton, alone or in combination, do not appear to teach or suggest a step of

transmitting a first signal requesting permission to transmit data as presently claimed. The Examiner is respectfully requested to either (i) provide clear and specific evidence where Takamoto and/or Sutton allegedly teach or suggest the claimed first signal or (ii) withdraw the rejection.

Claim 1 further provides a step of generating a first packet from data of a first source prior to receiving a second signal granting the permission to transmit data. Despite the assertion on page 2, last paragraph of the Office Action, FIGS. 2 and 4, the abstract, column 8 lines 4-20 and claim 1 of Takamoto appears to be silent regarding both (i) a second signal granting permission to transmit data and (ii) generating a data packet prior to receiving the second signal. Therefore, Takamoto and Sutton, alone or in combination, do not appear to teach or suggest a step of generating a first packet from data of a first source prior to receiving a second signal granting permission to transmit data as presently claimed. The Examiner is respectfully requested to either (i) provide clear and specific evidence where Takamoto and/or Sutton allegedly teach or suggest both the claimed second signal and generating data packets prior to receiving the second signal or (ii) withdraw the rejection.

Claim 1 further provides a step of transmitting a third signal requesting a change of data source from a first source to a second source subsequent to a step of generating a first packet. Despite the assertion on page 3 of the Office Action, the text in column 8, lines 15-56 of Sutton appear to be silent regarding transmission of a signal subsequent to generating a first packet. Therefore, Takamoto and Sutton, alone or in combination, do not appear to teach or suggest a step of transmitting a third signal requesting a change of data source from a first source to a second source subsequent to a step of generating a first packet as presently claimed. The Examiner is respectfully requested to either provide clear and specific evidence where Takamoto and/or Sutton allegedly teach or suggest transmitting a signal subsequent to generate a data packet or (ii) withdraw the rejection.

Claim 1 further provides transmitting the third signal if data of a first source is incomplete. Despite the assertion on page 3 of the Office Action, the text in column 8, lines 15-56 of Sutton appear to be silent regarding any determination that data from a first source is incomplete. Therefore, Takamoto and Sutton, alone or in combination, do not appear to teach or suggest transmitting the third signal if data of a first source is incomplete as presently claimed. The Examiner is respectfully

requested to either (i) provide clear and specific evidence where Takamoto and/or Sutton allegedly teach or suggest to transmit a signal if data from a source is incomplete or (ii) withdraw the rejection.

Furthermore, *prima facie* obviousness has not been established for lack of clear and particular evidence of motivation to combine the references. The asserted motivation provided on page 3 of the Office Action does not appear to be based on either reference or knowledge generally available to one of ordinary skill in the art as required by MPEP §2142. Therefore, the asserted motivation is merely a conclusory statement. Claim 13 provides language similar to claim 1. As such, the claimed invention is fully patentable over the cited references and the rejection should be withdrawn.

Claim 12 provides transmitting a third signal if a time stamp included in data of a first source is later than a time of receiving a second signal. In contrast, both Takamoto and Sutton appear to be silent regarding data from a source including a time stamp. Furthermore, the Office Action makes no assertion that Takamoto and/or Sutton provide evidence of a time stamp. Therefore, Takamoto and Sutton, alone or in combination, do not appear to teach or suggest transmitting a third signal if a time

stamp included in data of a first source is later than a time of receiving a second signal as presently claimed.

Claim 12 further provides a step of transmitting a first signal requesting a permission to transmit data. Despite the assertion on page 2, last paragraph of the Office Action, FIGS. 2 and 4, the abstract, column 8 lines 4-20 and claim 1 of Takamoto appears to be silent regarding transmission of a signal requesting permission to transmit data. Therefore, Takamoto and Sutton, alone or in combination, do not appear to teach or suggest a step of transmitting a first signal requesting permission to transmit data as presently claimed. The Examiner is respectfully requested to either (i) provide clear and specific evidence where Takamoto and/or Sutton allegedly teach or suggest the claimed first signal or (ii) withdraw the rejection.

Claim 12 further provides a step of generating a first packet from data of a first source prior to receiving a second signal granting the permission to transmit data. Despite the assertion on page 2, last paragraph of the Office Action, FIGS. 2 and 4, the abstract, column 8 lines 4-20 and claim 1 of Takamoto appears to be silent regarding both (i) a second signal granting permission to transmit data and (ii) generating a data packet prior to receiving the second signal. Therefore, Takamoto and Sutton,

alone or in combination, do not appear to teach or suggest a step of generating a first packet from data of a first source prior to receiving a second signal granting permission to transmit data as presently claimed. The Examiner is respectfully requested to either (i) provide clear and specific evidence where Takamoto and/or Sutton allegedly teach or suggest both the claimed second signal and generating data packets prior to receiving the second signal or (ii) withdraw the rejection.

Claim 12 further provides a step of transmitting a third signal requesting a change of data source from a first source to a second source subsequent to a step of generating a first packet. Despite the assertion on page 3 of the Office Action, the text in column 8, lines 15-56 of Sutton appear to be silent regarding transmission of a signal subsequent to generating a first packet. Therefore, Takamoto and Sutton, alone or in combination, do not appear to teach or suggest a step of transmitting a third signal requesting a change of data source from a first source to a second source subsequent to a step of generating a first packet as presently claimed. The Examiner is respectfully requested to either provide clear and specific evidence where Takamoto and/or Sutton allegedly teach or suggest transmitting a signal subsequent to generate a data packet or (ii) withdraw the rejection. As such,

the claimed invention is fully patentable over the cited references and the rejection should be withdrawn.

Claim 3 provides transmitting a third signal occurs if a time stamp included in data of a first source is later than a time of receiving the second signal. Despite the assertion on page 3 of the Office Action, the abstract, column 3 and column 4 of Sutton appears to be silent regarding a time stamp relative to a reception time of a second signal. Therefore, Takamoto and Sutton, alone or in combination, do not appear to teach or suggest transmitting a third signal occurs if a time stamp included in data of a first source is later than a time of receiving the second signal as presently claimed. The Examiner is respectfully required to either (i) provide clear and specific evidence where Sutton and/or Takamoto allegedly teach or suggest both the claimed time stamp and comparing a time of receiving a signal against the time stamp or (ii) withdrawn the rejection. As such, claim 3 is fully patentable over the cited references and the rejection should be withdrawn.

Claim 4 provides discarding a first data packet. Despite the assertion on page 3, last paragraph of the Office Action, FIG. 8, FIG. 9 and column 8 line 65 thru column 9 line 43 of Sutton appear to be silent regarding discarding packets. Therefore, Takamoto and Sutton, alone or in combination, do not appear to

teach or suggest discarding a first data packet as presently claimed. The Examiner is respectfully requested to either (i) provide clear and specific evidence where Sutton and/or Takamoto allegedly teach or suggest discarding packets or (ii) withdraw the rejection. As such, claim 4 is fully patentable over the cited references and the rejection should be withdrawn.

Claim 5 provides that transmitting of a third signal occurs after receiving a second signal. Page 2, last paragraph of the Office Action asserts that an unidentified signal somewhere in FIG. 2 and/or FIG. 4 of Takamoto is similar to the claimed second signal. Page 4, first paragraph of the Office Action asserts that another unidentified signal somewhere in column 8 of Sutton is similar to the claimed third signal. However, no evidence or explanation is provided in the Office Action how Sutton can teach that transmission of a signal (allegedly taught by Sutton) could occur after receiving another signal (from Takamoto) **unknown to Sutton**. Thus, the assertion that Sutton teaches transmitting a signal after receiving a Takamoto signal is merely a conclusory statement. Therefore, Takamoto and Sutton, alone or in combination, do not appear to teach or suggest that transmitting of a third signal occurs after receiving of a second signal as presently claimed. As such, claim 5 is fully patentable over the

cited references and the rejection should be withdrawn.

COMPLETENESS OF THE OFFICE ACTION

Aside from a notice of allowance, Applicant's representative respectfully requests any further action on the merits be presented as a non-final action. 37 CFR §1.104(b) states:

(b) *Completeness of examiner's action.* The examiner's **action will be complete as to all matters**, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters of form need not be raised by the examiner until a claim is found allowable. (Emphasis added)

The Office Action includes several omnibus rejections that simply list most of the claim elements and then assert that the claim elements are disclosed somewhere among one or more figures and/or dozens of text lines contrary to MPEP §707.07(d). As such, the Office Action mailed November 5, 2003 is incomplete and should be withdrawn as an action on the merits.

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed

beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit
Account No. 12-2252.

Respectfully submitted,
CHRISTOPHER P. MAIORANA, P.C.

Christopher P. Maiorana
Registration No. 42,829

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c/o Peter Scott
LSI Logic Corporation
1621 Barber Lane, M/S D-106 Legal
Milpitas, CA 95035

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